

SENATE BILL 567

Q7

2lr1610
CF HB 563

By: **Senators King, Colburn, Currie, Garagiola, Glassman, Jennings, Manno, McFadden, and Robey**

Introduced and read first time: February 3, 2012

Assigned to: Budget and Taxation

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 20, 2012

CHAPTER _____

1 AN ACT concerning

2 ~~Telecommunications~~ Communications ~~Taxes – Reform Commission and~~
3 ~~Moratorium~~

4 FOR the purpose of establishing the ~~Telecommunications~~ Communications Tax
5 Reform Commission; providing for the composition, chair, and staffing of the
6 Commission; prohibiting a member of the Commission from receiving certain
7 compensation, but authorizing the reimbursement of certain expenses;
8 requiring the Commission to assess the feasibility and fiscal implications of a
9 competitively neutral ~~telecommunications~~ communications tax and fee system
10 that eliminates the disparate treatment of similar ~~telecommunications~~
11 communications service providers; requiring the Commission to examine certain
12 taxes and fees in conducting its assessment; requiring the Comptroller and the
13 State Department of Assessments and Taxation to collect data from the State,
14 local governments, and ~~telecommunications~~ communications service providers
15 concerning revenue collected from current ~~telecommunications~~ communications
16 taxes and fees; requiring that the data collected be provided to the Commission
17 by a certain date; prohibiting certain data collected from ~~telecommunications~~
18 communications service providers from being publicly disclosed unless it is
19 aggregated in a certain manner; requiring a State or local government agency or
20 a ~~telecommunications~~ communications service provider to cooperate reasonably
21 with data collection efforts under this Act; authorizing the Comptroller or the
22 State Department of Assessments and Taxation to subpoena a State or local
23 government agency or a ~~telecommunications~~ communications service provider
24 that fails to cooperate reasonably with data collection under this Act;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 authorizing a petition to a circuit court to compel compliance with a subpoena;
2 requiring the Commission to report its findings and recommendations to the
3 Governor and the General Assembly on or before ~~a certain date~~ dates;
4 ~~prohibiting the State or a county government from imposing a tax or fee on a~~
5 ~~telecommunications service that is not in effect on a certain date during a~~
6 ~~certain period; prohibiting the State or a county government from increasing a~~
7 ~~tax or fee on a telecommunications service above the amount in effect on a~~
8 ~~certain date during a certain period; defining a certain term; providing for the~~
9 termination of this Act; and generally relating to the ~~Telecommunications~~
10 Communications Tax Reform Commission.

11 Preamble

12 WHEREAS, Competition and changes in technology have expanded the types of
13 ~~telecommunications~~ communications services available to businesses and consumers
14 in Maryland; and

15 WHEREAS, Most State and local taxes and fees on ~~telecommunications~~
16 communications services were adopted before these changes in technology and the
17 emergence of competition; and

18 WHEREAS, Current tax and fee structures may no longer be suitable for the
19 current ~~telecommunications~~ communications marketplace; and

20 WHEREAS, Taxes and fees on ~~telecommunications~~ communications services
21 should treat providers and consumers the same regardless of the technology or
22 platform used to provide the services; and

23 WHEREAS, Tax policy should encourage investment in ~~telecommunications~~
24 communications networks because ~~telecommunications~~ communications services are
25 vital to the State's economic growth and competitiveness; and

26 WHEREAS, The burden of collecting and remitting taxes and fees on
27 ~~telecommunications~~ communications services is borne by providers of the services, and
28 service providers should participate in any discussions about restructuring
29 ~~telecommunications~~ communications taxes and fees; and

30 WHEREAS, The State ~~and~~, the counties, ~~and~~ the municipal corporations receive
31 revenues from ~~telecommunications~~ communications taxes and fees and should
32 participate in any discussions about restructuring ~~telecommunications~~
33 communications taxes and fees; and

34 WHEREAS, More information about the impact of ~~telecommunications~~
35 communications tax and fee restructuring on consumers and governments is necessary
36 so that the General Assembly may consider ~~telecommunications~~ communications tax
37 and fee restructuring legislation during the ~~2013~~ 2014 session of the General
38 Assembly; and

1 WHEREAS, It is the intent of the General Assembly that all parties with an
2 interest in ~~telecommunications~~ communications taxes and fees in Maryland work
3 together to develop recommendations on restructuring ~~telecommunications~~
4 communications taxes and fees; and

5 WHEREAS, A Commission of qualified individuals representing the interests
6 most affected by ~~telecommunications~~ communications tax and fee restructuring should
7 study the issues and submit a report and any proposed legislation to the General
8 Assembly for consideration during the ~~2013~~ 2014 session of the General Assembly;
9 now, therefore,

10 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
11 MARYLAND, That:

12 (a) There is a ~~Telecommunications~~ Communications Tax Reform
13 Commission.

14 (b) The Commission consists of the following members:

15 (1) two members of the Senate of Maryland, appointed by the
16 President of the Senate;

17 (2) two members of the House of Delegates, appointed by the Speaker
18 of the House;

19 (3) the Comptroller, or the Comptroller's designee;

20 (4) the Director of the State Department of Assessments and Taxation,
21 or the Director's designee; and

22 (5) the following members appointed by the Governor:

23 (i) ~~two~~ four representatives of the Maryland Association of
24 Counties, representing different geographic regions of the State; and

25 (ii) two representatives of the Maryland Municipal League, one
26 representing a municipality with a relatively small population and one representing a
27 municipality with a relatively large population;

28 (iii) two citizens of the State who are consumers of
29 communications services;

30 (iv) one representative of a labor union representing workers in
31 the communications industry;

32 (v) one representative of the Tech Council of Maryland;

1 (vi) one representative of the Maryland Chamber of Commerce;
 2 and

3 ~~(ii)~~ (vii) one representative of each of the following
 4 ~~telecommunications~~ communications carriers:

- 5 1. local exchange;
- 6 2. interexchange;
- 7 3. cable television;
- 8 4. wireless; and
- 9 5. satellite.

10 (c) The Governor shall designate the chair of the Commission.

11 (d) The Comptroller and the State Department of Assessments and Taxation
 12 shall provide staff for the Commission.

13 (e) A member of the Commission:

14 (1) may not receive compensation as a member of the Commission; but

15 (2) is entitled to reimbursement for expenses under the Standard
 16 State Travel Regulations, as provided in the State budget.

17 (f) The Commission shall assess the:

18 (1) feasibility and fiscal implications for the State and local
 19 governments of a modernized, competitively neutral ~~telecommunications~~
 20 communications tax and fee system that ~~encourages investment in broadband~~
 21 ~~networks and~~ eliminates the disparate treatment of similar ~~telecommunications~~
 22 communications service providers; and

23 (2) efficacy of tax and other incentives to encourage investment in
 24 broadband networks and emerging technologies.

25 (g) In conducting the assessment required under subsection (f) of this
 26 section, the Commission shall examine the following taxes and fees as they relate to
 27 consumers and providers of ~~telecommunications~~ communications services:

28 (1) State and local property taxes;

1 (2) the public service company franchise tax imposed under Title 8,
2 Subtitle 4 of the Tax – General Article;

3 (3) sales and use taxes;

4 (4) the corporate income tax imposed under Title 10 of the Tax –
5 General Article;

6 (5) local ~~telecommunications~~ communications taxes; and fees; and

7 (6) ~~local cable television franchise fees and public, education, and~~
8 ~~government access channel fees; and~~

9 ~~(7)~~ any other ~~telecommunications~~ communications tax or fee that the
10 Commission determines is relevant to the assessment.

11 (h) (1) The Comptroller and the State Department of Assessments and
12 Taxation shall collect data from the State and local governments to determine the
13 amount of revenue collected by the State and ~~each county government~~ local
14 governments from all ~~current~~ relevant taxes and fees on ~~telecommunications~~
15 communications services during fiscal year 2012.

16 (2) The Comptroller and the State Department of Assessments and
17 Taxation shall collect data from ~~telecommunications~~ communications service providers
18 to determine the amount of revenue remitted to the State and ~~each county government~~
19 local governments by each ~~telecommunications~~ communications service provider in
20 relevant taxes and fees on ~~telecommunications~~ communications services during fiscal
21 year ~~2011~~ 2012.

22 (3) Subject to paragraph (4) of this subsection, the Comptroller and
23 the State Department of Assessments and Taxation shall provide the information
24 required to be collected under paragraphs (1) and (2) of this subsection to the
25 Commission promptly on receipt of the information or by ~~September~~ December 15,
26 2012, whichever is earlier.

27 (4) Data collected from a ~~telecommunication~~ communications service
28 provider under paragraph (2) of this subsection may not be disclosed to the public
29 unless it is aggregated so that market share and other sensitive market information
30 for individual providers cannot be determined.

31 (5) (i) State government agencies, ~~county~~ local governments, and
32 ~~telecommunications~~ communications service providers shall cooperate reasonably with
33 the data collection efforts undertaken by the Comptroller and the State Department of
34 Assessments and Taxation under paragraphs (1) and (2) of this subsection.

35 (ii) The Comptroller or the State Department of Assessments
36 and Taxation may subpoena a State or local government agency or

1 ~~telecommunications~~ communications service provider that fails to cooperate
2 reasonably with data collection efforts undertaken under paragraphs (1) and (2) of this
3 subsection.

4 (iii) If a person fails to comply with a subpoena issued under
5 subparagraph (ii) of this paragraph, the Comptroller or the State Department of
6 Assessments and Taxation may petition a circuit court to order compliance with the
7 subpoena.

8 (i) (1) On or before December 31, 2012, the Commission shall make an
9 interim report of its findings and recommendations to the Governor and, in accordance
10 with § 2-1246 of the State Government Article, the General Assembly.

11 (2) On or before ~~January 1, 2013~~ June 30, 2013, the Commission shall
12 ~~report~~ make a final report of its findings and recommendations to the Governor and, in
13 accordance with § 2-1246 of the State Government Article, the General Assembly.

14 ~~(j) (1) In this subsection, "telecommunications service" means:~~

15 ~~(i) local exchange, interexchange, and wireless telephone~~
16 ~~service;~~

17 ~~(ii) cable television service; or~~

18 ~~(iii) satellite television service.~~

19 ~~(2) Notwithstanding any other law, the State or a county government~~
20 ~~may not:~~

21 ~~(i) impose a tax or fee on telecommunications service providers~~
22 ~~or consumers of telecommunications services during the period from June 1, 2012,~~
23 ~~until June 30, 2013, both inclusive, unless the tax or fee is in effect on May 31, 2012;~~
24 ~~or~~

25 ~~(ii) increase the rate or amount of any tax or fee on~~
26 ~~telecommunications service providers or consumers of telecommunications services~~
27 ~~above the rate or amount in effect on May 31, 2012, during the period from June 1,~~
28 ~~2012, until June 30, 2013, both inclusive.~~

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 June 1, 2012. It shall remain effective for a period of 1 year and 1 month and, at the
31 end of June 30, 2013, with no further action required by the General Assembly, this
32 Act shall be abrogated and of no further force and effect.